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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,821	12/10/2003	Richard J. Hantke	KCX-772 (20000)	6793
22827	7590	08/10/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/732,821

Applicant(s)

HANTKE ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-15,17-19 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-15,17-19,24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments, see Remarks, filed July 21, 2006, with respect to the rejection(s) of claim(s) 1-3, 7-9, 11-15, 17-19 and 24-30 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 6-15, 17-19 and 24-30 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a wrapper material, does not reasonably provide enablement for a wrapper material having a seal strength of 20-60 grams-force or an opening noise level of less than about 60 dB. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. The disclosure lacks a complete description of the composition of the claimed wrapper material that would enable one of ordinary

skill in the art to make or use the invention so as to be able to replicate the seal strength and opening noise level set forth in the claims.

Claims merely setting forth physical characteristics desired in article, and not setting forth specific compositions which would meet such characteristics, are invalid as being indefinite since they cover any conceivable combination of ingredients either presently existing or which might be discovered in future and which would impart desired characteristics; thus, expression "a liquefiable substance having a liquefaction temperature from about 40°C. to about 300°C. and being compatible with the ingredients in the powdered detergent composition" is too broad and indefinite since it purports to cover everything which will perform the desired functions regardless of its composition, and, in effect, recites compounds by what it is desired that they do rather than what they are; expression also is too broad since it appears to read upon materials that could not possibly be used to accomplish purposes intended.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 7-9, 11-15, 17-19 and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al ('160) in view of Mehta et al (U.S. Patent No. 5,358,792).

With respect to **Claims 1, 11, 12, 15, 17, 24-26, 28 and 29**: Mizutani teaches package 1 comprised of wrapper material 10 and absorbent article 2. (Fig. 1) (Col. 8, lines 62-65) Mizutani teaches that wrapper material 10 is folded into a pouch by folding front portion 2c back onto central portion 2b and then rear portion 2d is folded over front portion 2c so as to overlay portion 2c, at which point confronting faces of each side region 10d of wrapper material 10 are fused to

form sealed portions 25 and the adhesive portion of tape tab 23 attached to opening flap 10c is adhered to face 10b. (Fig. 2) (Col. 10, lines 3-16) Mizutani teaches that package member 10 is a laminate composite nonwoven fabric. (Col. 5, lines 26,27) Mizutani teaches that the fused faces of packaging material 10 are peeled from one another at sealed portions 25 for opening and resealing upon disposal. (Col. 10, lines 64,65) Mizutani teaches a decibel level upon unsealing of portions 25 of 55 db. (Col. 12, line 1).

Mizutani does not teach a seal strength for sealed portions 25. Mehta teaches a heat sealable nonwoven material film comprising polyethylene suitable for use in applications requiring a laminate film (such as a plastic packaging material) having a sealing strength of 100 g/in at 110 degrees C (Mizutani teaches a sealing temperature of 100 degrees C). Mehta teaches that sealing at a lower temperature with the film of the present invention broadens the heat sealing range while maintaining sealing integrity, therefore it would be obvious to one of ordinary skill in the art to use the film taught by Mehta for the wrapper material taught by Mizutani. The combined teaching of Mizutani and Mehta does not teach a seal strength that falls within the range of seal strengths set forth in claim 1, however, in view of the rejection of claim 1 under 35 U.S.C. 112, it would be obvious to one of ordinary skill in the art to further modify the composition of the film taught by Mehta to yield a seal strength value between 20-60 gf.

With respect to **Claim 2**: As stated with respect to Claim 1, Mizutani teaches sealed portions 25 wherein confronting lateral edges are sealed together.

With respect to **Claims 3, 27**: As stated with respect to Claim 1, Mizutani teaches tape tab 23 with faces 23a and 23b extending from edge 10c, wherein 23a is adhered to portion 10b and

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23b protruding from end edge 10c is coated so as to be releasably attachable to opening flap 2c. (Col. 8, line 66, 67, Col. 9, lines 1-9).

With respect to **Claim 7**: As stated with respect to Claim 1, packaging material 10 is comprised of a composite nonwoven wherein the inner face layer 12, outer face layer 13 and intermediate layer 11 are all comprised of various nonwoven films. When packaging member 10 is folded into the pouch formation, the inner face layer 12 forms an interior of package member 10 and the outer nonwoven face layer 13 will still be exposed. Although nonwovens are substantially liquid-impermeable, they are also substantially vapor permeable. Edge portions 10d taught by Mizutani are comprised of all layers of the composite laminate nonwoven.

With respect to **Claim 8**: Please see the rejection of claims 4 and 5 above. Since Mizutani teaches a laminate and does not explicitly teach differing dimensions for each of layers 11, 12 and 13, Examiner is concluding that the length of inner layer 12 is equal to the length of outer layer 13.

With respect to **Claim 9**: Mizutani teaches that the laminate nonwoven material 10 is highly resistant to water-permeation. (Col. 5, lines 30-33).

With respect to **Claim 10**: Mehta teaches a polyethylene film, which is known in the art to be vapor-permeable.

With respect to **Claim 13**: Referring to Fig. 1, Mizutani teaches fold axes that are viewed upon folding of portions 2c and 2d toward the opposing fold axis.

With respect to **Claim 14**: Mizutani teaches edge 10c of portion 2c that is unsealed except for the portions which are lateral edges that are sealed at regions 25. (Fig. 2)

With respect to **Claim 18**: Mizutani teaches that edge portions 10d are sealed using a heat roll. (Col. 10, lines 13-16).

With respect to **Claim 19**: Sealed portions 25 are present on both lateral sides of package 10 when in folded position.

With respect to **Claim 30**: Each lateral side 10d of packaging material 10 defines sealing regions 25.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mizutani et al ('160) in view of Mehta et al (U.S. Patent No. 5,358,792) as applied to claims 1-3, 7-9, 11-15, 17-19 and 24-30 above, and further in view of Luizzi et al (U.S. Patent Application Publication No. 2003/0199842).

With respect to **Claim 6**: Neither Mizutani nor Mehta teaches a material having a pattern of holes defined therethrough wherein a nonwoven material is exposed by said holes. Luizzi teaches an absorbent article having a tape tab at one longitudinal end for retaining a soiled article in a folded configuration. The article is comprised of a backsheet of nonwoven material and a cover sheet comprised of a porous (i.e. vapor permeable) or nonporous nonwoven film. ('842, ¶0032) Therefore Luizzi teaches that a porous film may be substituted for a regular

nonwoven, and a porous film by its nature possesses a pattern of holes. In the instant case substitution of equivalent methods requires no express motivation, as long as the prior art recognizes equivalency, *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 85 USPQ 328 (USSC 1950). Thus the combined teaching of Mizutani and Mehta and Luizzi teaches a film material sheet comprising a pattern of holes defined therethrough wherein a nonwoven material is exposed by said holes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand

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MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', written over the printed name.